

53B-23-101. Title.

This chapter is known as the "Instructional Materials for Students with a Disability Act."

Amended by Chapter 366, 2011 General Session

53B-23-102. Definitions.

For purposes of this chapter:

(1) (a) "Instructional material or materials" means textbooks and other materials written and published primarily for use by students in postsecondary instruction that are required or essential to a student's success in a course of study in which a student with a disability is enrolled. The determination of which materials are "required or essential to student success" shall be made by the instructor of the course in consultation with the official making the request pursuant to Section 53B-23-103 in accordance with rules issued pursuant to Section 53B-23-106.

(b) "Instructional material or materials" does not include nontextual mathematics and science materials until the time software becomes commercially available that permits the conversion of existing electronic files of the materials into a format that is compatible with braille translation software or alternative media for students with disabilities.

(2) "Printed instructional material or materials" means instructional material or materials in book or other printed form.

(3) "Nonprinted instructional materials" means instructional materials in formats other than print, and includes instructional materials that require the availability of electronic equipment in order to be used as a learning resource, including software programs, video disks, and video and audio tapes.

(4) "State institution of higher education" means an institution listed in Section 53B-2-101.

(5) "Specialized format" means braille, audio, or digital text that is exclusively for use by blind or other persons with disabilities.

(6) (a) "Structural integrity" means all of the printed instructional material, including the text of the material, sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, glossaries, and bibliographies.

(b) "Structural integrity" need not include nontextual elements such as pictures, illustrations, graphs, or charts.

Enacted by Chapter 301, 2006 General Session

53B-23-103. Instructional materials to be provided in electronic format.

(1) (a) On or after January 1, 2009, any person that publishes or manufactures printed instructional material for students attending a state institution of higher education shall provide to the institution for use by students attending the institution any printed instructional material in an electronic format mutually agreed upon by the publisher or manufacturer and the institution.

(b) Computer files or electronic versions of the printed instructional material shall:

(i) maintain the structural integrity of the printed instructional material;
(ii) be compatible with commonly used braille translation and speech synthesis software; and

(iii) include corrections and revisions as may be necessary.

(c) If good faith efforts fail to produce an agreement pursuant to Subsection (1)(a) between the publisher or manufacturer and the institution as to an electronic format that will preserve the structural integrity of the printed instructional material, the publisher or manufacturer shall provide the instructional material in ASCII text and shall preserve as much of the structural integrity of the printed instructional material as possible.

(2) The computer files or electronic versions of the printed instructional material shall be provided to the institution at no additional cost and in a timely manner, upon receipt of a written request that:

(a) certifies that the institution has purchased the printed instructional material for use by a student with a disability or that a student with a disability attending or registered to attend that institution has purchased the printed instructional material;

(b) certifies that the student has a disability that prevents the student from using standard instructional materials;

(c) certifies that the printed instructional material is for use by the student in connection with a course in which the student is registered or enrolled at the institution; and

(d) is signed by the coordinator of services for students with disabilities at the institution or by the official responsible for monitoring compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq. at the institution.

(3) A publisher or manufacturer providing instructional materials in an electronic format to an institution may require that, in addition to the requirements specified in Subsections (2)(a) through (2)(d), the request shall include a statement signed by the student that:

(a) the student will use the electronic copy of the printed instructional material in specialized format solely for the student's own educational purposes; and

(b) the student will not copy or duplicate the printed instructional material for use by others.

(4) If an institution permits a student to directly use the electronic version of an instructional material, the disk or file shall be copy-protected or the institution shall take other reasonable precautions to ensure that the student does not copy or distribute electronic versions of instructional materials in violation of the Copyright Revisions Act of 1976, 17 U.S.C. Sec. 101 et seq.

(5) A person that publishes or manufactures nonprinted instructional materials for students attending a state institution of higher education shall provide computer files or other electronic versions of the nonprinted instructional materials for use by students attending the institution subject to the same requirements specified in Subsections (1) and (2) for printed instructional materials, when technology is available to convert the nonprinted instructional materials to a format that maintains the structural integrity of the nonprinted instructional materials that is compatible with braille translation and speech synthesis software.

(6) Nothing in this chapter shall be construed to prohibit an institution from

assisting a student with a disability by using the electronic version of printed instructional material provided pursuant to this section solely to transcribe or arrange for the transcription of the printed instructional materials into braille. If a transcription is made, the institution shall have the right to share the braille copy of the printed instructional material with other students with disabilities.

Enacted by Chapter 301, 2006 General Session

53B-23-104. Centers for processing requests for electronic versions of instructional materials.

(1) The State Board of Regents may establish one or more centers to process requests for electronic versions of instructional materials pursuant to this chapter.

(2) The institutions designated as within the jurisdiction of a center shall submit requests for instructional material to the center, which shall transmit the request to the publisher or manufacturer.

(3) If there is more than one center, each center shall make every effort to coordinate requests.

(4) The publisher or manufacturer of instructional material shall be required to honor and respond to only those requests submitted through a designated center.

(5) If a publisher or manufacturer has responded to a request for instructional materials by a center, all subsequent requests for those instructional materials shall be satisfied by the center to which the request is made.

Enacted by Chapter 301, 2006 General Session

53B-23-105. Infringement of copyright laws not authorized.

Nothing in this chapter shall be considered to authorize any use of instructional materials that would constitute an infringement of copyright under the Copyright Revision Act of 1976, as amended, 17 U.S.C. Sec. 101 et seq.

Enacted by Chapter 301, 2006 General Session

53B-23-106. State Board of Regents to make rules.

The State Board of Regents shall adopt rules consistent with this section for its implementation and administration, including rules addressing:

(1) the designation of materials considered "required or essential to student success";

(2) the determination of the availability of technology for the conversion of nonprinted materials pursuant to Section 53B-23-103 and the conversion of mathematics and science materials pursuant to Section 53B-23-102; and

(3) the procedures and standards relating to distribution of files and materials pursuant to Section 53B-23-103.

Enacted by Chapter 301, 2006 General Session